

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2814 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
1 to 5 No

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MITHOXY CHEMICALS PVT LTD.

Versus

SUNIL NARMADASHNKAR PANDYA

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Appearance:

MR P. UPADHYAY for Petitioner

MR KS JHAVERI for Respondent No. 1

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CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 05/05/97

ORAL JUDGEMENT

Rule. Mr. Zaveri waives service of rule on behalf of respondent.

This Special Civil Application is directed against the order dated 22.10.96 passed by the Labour Court, Vadodara whereby the earlier order dated 19.8.93 rejecting the Reference has been set aside and the Reference has been restored to its original number. This

order was passed in favour of the respondent-workman restoring the Reference but while passing this order, the Labour Court has imposed a rather strange condition calling upon the present petitioner to pay cost of Rs.1000/- to the workman, at whose instance the Reference has been restored. Such a condition is wholly unreasonable because the Reference was restored at the instance of the workman. The cost, therefore, could not be imposed against the other party. The impugned order dated 22.10.96, therefore, militates against the basic principles for passing the orders of restoration on certain conditions and as such it cannot be sustained in the eye of law. In this case, the condition of cost has been imposed against the other side, which is beyond understanding and comprehension. The reason, which has been given for awarding the cost to the workman, is that the workman could not remain present for his own personal reason. This could be a good ground for restoring the Reference, but it could not at all be a ground for awarding the cost to him and to be recover the cost from the petitioner-Company.

Accordingly this Special Civil Application is allowed to the extent as above and the impugned order dated 22.10.96 with regard to the restoration is upheld but with regard to the cost is set aside. Rule is made absolute in the terms, as aforesaid, with no order as to costs.